

# **2020 Vulnerable Adult Abuse Conference**

November 5 - 6, 2020



## **Arizona's Vulnerable Adult Abuse Investigation Protocol**

Presented by:

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Distributed by:

**ARIZONA PROSECUTING ATTORNEYS' ADVISORY COUNCIL**

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# **Vulnerable Adult Multi Disciplinary Protocol Project**

Presented by

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# WHAT IS THE SECURITIES DIVISION?

- ▶ The Securities Division of the Arizona Corporation Commission is responsible for investigating possible violations of the anti-fraud and registration provisions of the Arizona Securities Act, and bringing civil administrative enforcement actions to remedy alleged violations. Our goal is to ensure that all rules and regulations regarding the offering and sale of securities (investments) have been followed and the investor's money is safe.
- ▶ The Securities Division currently has 10 investigators, both sworn and civilian, who take each case from administrative action all the way through criminal prosecution if the facts warrant further action. At the present time, about 30% of our cases are referred for criminal prosecution, all of our Title 44 statutes carry a class 4 felony designation.
- ▶ The Securities Division now has designated vulnerable adult exploitation reporting online for securities professionals who may recognize when a client is being exploited by family, friends or another investment professional. This online reporting system is linked with Adult Protective Services to coordinate responses.
- ▶ The Investigators and Attorneys can offer assistance on complex securities prosecutions, charging documentation and evidence preparation upon request.

# PROJECT GOALS

Update the Maricopa County Elder Abuse Protocol, issued in 2001.

To revise outdated wording from just 'elder' to the more inclusive 'vulnerable adult' term.

To raise awareness within the state on recognition, prevention and reporting of vulnerable adult abuse, neglect and exploitation.

To provide a means of communication and open coordination among statewide groups and local coalitions.

# KEY STAKEHOLDERS

1. Prosecutors
2. Adult Protective Services
3. Law enforcement
4. Statewide Elder Abuse Coalition
5. AARP
6. AZ Governor's Council on Aging
7. Victim Advocates
8. Maricopa Association of Governments
9. AG's Office TASA Committee



*& Vulnerable Adult Abuse  
& Exploitation Protocol*

# PROTOCOL SECTIONS

1. Law Enforcement
2. Adult Protective Services
3. Ombudsman
4. Fiduciary
5. Health care community
6. Prosecutor
7. Victim advocacy

# LAW ENFORCEMENT PROTOCOL

- ▶ The purpose of law enforcement is to respond to incidents of abuse, neglect and exploitation of incapacitated and vulnerable adults and determine if a crime has been committed.
- ▶ Then bring to light those facts and circumstances necessary to bring perpetrators into the criminal justice system. Law enforcement must be concerned with more than just statutory requirements and case law.
- ▶ Law enforcement personnel must be cognizant of the needs of the victim and the responsibilities of other organizations involved in the victim's treatment, support and recovery.
- ▶ Coordinating their efforts with Adult Protective Services (APS) and public fiduciaries, as well as the prosecuting agency.

# ADULT PROTECTIVE SERVICES PROTOCOL

- ▶ APS investigates incidents of abuse, neglect, exploitation of vulnerable or incapacitated adults who live at home or in community-based settings and offers appropriate services.
- ▶ APS does not have the authority to remove an adult from a situation although the adult may be suffering abuse, self-neglect, neglect by others or exploitation (as long as the adult has the mental capacity to make decisions). APS does not make the determination on competency.
- ▶ A professional evaluation by a medical doctor, psychologist or registered nurse determines if an adult lacks the mental capacity to make such decisions. Then APS may submit a referral to the Public Fiduciary to appoint a guardian or conservator for the adult. Only after a guardian has been appointed by a court can the guardian make decisions for the adult.

# LONG TERM CARE/OMBUDSMAN PROTOCOL

- ▶ Under the federal Older Americans Act every state is required to have a Long-Term Care Ombudsman Program that addresses complaints and advocate for improvements in the long-term care system.
- ▶ The Long-Term Care Ombudsman Program advocate for residents of adult foster care, assisted living, and skilled nursing facilities. Designated Long-Term Care Ombudsmen work to resolve problems individual residents face and effect change at the local, state and national levels to improve quality of care.
- ▶ Long-Term Care Ombudsman Programs do not:
  - ▶ Conduct licensing and regulatory inspections or investigations;
  - ▶ Perform Adult Protective Services investigations; or
  - ▶ Provide direct care for residents.

# FIDUCIARY PROTOCOL

- ▶ The mission of each County Public Fiduciary is to provide guardianship, conservatorship, decedent services and court ordered investigations for vulnerable persons, so their estates and well-being are protected.

## **Role of County Public Fiduciary**

- ▶ The Public Fiduciary provides vulnerable, adults with guardianship, conservatorship or decedent services when no other person or corporation is qualified and willing to serve. (A.R.S. 14-5602)

Investigations: When a referral is accepted, the Public Fiduciary will pursue the alleged perpetrator and/or the need for a guardianship in compliance with his/her fiduciary obligations to the vulnerable adult or the adult's estate.

# HEALTH CARE COMMUNITY PROTOCOL

## ▶ MEDICAL HEALTH CARE

- All health care providers who come into contact with a vulnerable adult victim have the legal responsibility to be aware of the signs of abuse and to report suspected cases to the proper authorities.
  - Adult Protective Services and/or Law Enforcement

## ▶ MENTAL HEALTH CARE

- Mental Health professionals should be advocates for vulnerable adult victims. Mental Health professionals are a source of referral for vulnerable adult abuse allegations because of their contact with vulnerable adults and their families. A primary concern of the mental health professional is to prevent re-victimization. It may be the therapist who hears the initial disclosure, either directly from the victim or indirectly from a third person. Since reporting of vulnerable adult abuse is mandatory for mental health professionals, it is incumbent upon the professional to be familiar with current theory and research on vulnerable adult issues.
  - Adult Protective Services and/or Law Enforcement

# PROSECUTOR PROTOCOL

- ▶ The goals of vulnerable adult abuse and exploitation prosecutions, many of which are domestic violence cases, are as follows:
  - ▶ 1. To uphold the law,
  - ▶ 2. To provide safety for the victim,
  - ▶ 3. To minimize the trauma to the victim,
  - ▶ 4. To protect the victim from further abuse, neglect or exploitation,
  - ▶ 5. To hold the offender accountable for the crime(s).
- ▶ Vulnerable adult abuse and exploitation prosecution is recognized as a specialization; although it could be designated as a domestic violence, financial fraud or homicide case. The prosecutor's offices may have specialized units to handle cases of vulnerable adults (both physical and financial). Other specialized bureaus within the office may handle some homicides and financial fraud cases.
- ▶ Specific training in dealing with vulnerable adult victims, medical issues in vulnerable adult cases, and financial fraud involving vulnerable adults is strongly encouraged with both initial and ongoing training. Knowledge of specific statutes relating to vulnerable adult crimes is essential.

# VICTIM ADVOCACY PROTOCOL

- ▶ Victim advocates are committed to balancing the scales of justice by empowering victims of crime to exercise their rights. Advocates strive to promote fairness, respect, and dignity for victims while advocating for their constitutional and statutory rights. Advocates strive to reduce the trauma associated with the individual's victimization and potential experience with the criminal justice system. They provide victim assistance, restitution assistance, and victim compensation services in an attempt to reduce the emotional hardships and financial burden caused by the criminal offense(s).
- ▶ There are many unique challenges regarding the victimization of vulnerable adults. Many perpetrators are caregivers or family members, which creates fear of retaliation, abandonment, or a change in living situations. Victimization can cause a mistrust of others and a feeling of loss of autonomy in vulnerable adults. Physical disabilities and/or cognitive impairments such as memory deficiencies require extra consideration, if a victim is able to testify as a witness.

# COMMITTEE GOALS IN 2015

1. Individual stakeholders were asked to review their respective sections of the original 2001 protocol and provide feedback through a shared document server.
2. APAAC (Arizona Prosecuting Attorney Advisory Council)- December 2014, agreed to coordinate the project by asking the prosecuting agencies around the state for feedback and participation.
3. MAG (Maricopa Association of Governments) agreed to host / coordinate the drafting process.
4. Meet on a monthly basis to begin drafting of updated protocol process until complete.

# COMMITTEE GOALS 2020

- ▶ Preview the final draft of the updated and improved 2020 version of the



- ▶ Present the finished product to APAAC for its final review and distribution statewide.
- ▶ Present the finished product to AACOP for its final review and distribution statewide.
- ▶ Present the finished product to Adult Protective Services, Public Fiduciary and other involved agencies statewide.

A special thank you to  
Elizabeth Ortiz,  
Arizona Prosecuting Attorney's Advisory Council  
and  
the Taskforce Against Senior Abuse  
for backing this revision process